

Assembly Bill No. 1408

CHAPTER 524

An act to amend Sections 33481 and 62569 of the Food and Agricultural Code, and to amend Section 17276.7 of the Revenue and Taxation Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 13, 2002. Filed
with Secretary of State September 15, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1408, Hollingsworth. Agriculture.

Existing law provides that the Secretary of the Department of Food and Agriculture shall establish regulations and provide plans and specifications at cost for the construction of sanitary milk barns and milk houses.

This bill would remove the requirement that the secretary provide plans and specifications for the construction of milk barns and houses and make a technical, nonsubstantive change to this provision.

Existing law provides for a net operating loss carryover for a taxpayer who conducts a farming business that is affected by Pierce's disease and its vectors, as specified. Existing law also authorizes the Department of Agriculture to adopt regulations to implement these provisions.

This bill would delete the provisions authorizing the implementing regulations and instead require the Franchise Tax Board to develop a management agreement with the cooperation of the Department of Food and Agriculture to establish procedures by which the Franchise Tax Board may confirm the fact that the taxpayer's farming business was affected by Pierce's disease and its vectors during the year for which the qualified taxpayer seeks a deduction.

Existing law establishes the Milk Producers Security Trust Fund, and authorizes collection and expenditure of moneys in connection therewith.

This bill would authorize the expenditure of these funds for additional expenses in connection with the use of certain financial instruments, as specified.

By authorizing additional items for expenditure of funds in a continuously appropriated fund, this bill would make an appropriation. This amendment would only become operative if SB 1769 is enacted.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 33481 of the Food and Agricultural Code is amended to read:

33481. The secretary shall establish regulations for the construction of sanitary milk barns and milk houses which are used in the production of market milk.

SEC. 2. Section 62569 of the Food and Agricultural Code is amended to read:

62569. Any money which is collected by the director pursuant to this chapter shall be deposited in a bank or other depository which is approved by the director. Funds which are so collected are exempt from Sections 11270 and 11272 of the Government Code and shall be deposited and disbursed only to pay for milk produced and delivered within this state, which has not been otherwise paid for, including pool equalization fund obligations, attorney's fees and other costs incurred in litigation involving the fund, expenses generated by the auditing requirement imposed by Section 62570, expenses generated by the use of alternative financial instruments pursuant to Section 62560, and for the costs set forth in Section 62573. The expenditure of those funds is exempt from Section 925.6 of the Government Code.

Nothing in this section prevents the director from using the increment received from investment, reinvestment, or deposit of money specified in Section 62573, in the manner provided by Section 62574.

SEC. 3. Section 17276.7 of the Revenue and Taxation Code is amended to read:

17276.7. (a) The term "qualified taxpayer" as used in Section 17276.1 includes a person or entity that conducts a farming business that is directly affected by Pierce's disease and its vectors. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback to any taxable year, and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a farming business is affected by Pierce's disease and its vectors shall be a net operating loss carryover to each of the nine taxable years following the taxable year of loss, until used.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer's farming business activities affected by Pierce's disease and its vectors. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:



(i) A loss shall be apportioned to the area affected by Pierce's disease and its vectors by multiplying the total loss from the farming business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The area affected by Pierce's disease and its vectors" shall be substituted for "this state."

(B) A net operating loss carryover computed under this section shall be allowed as a deduction only with respect to the taxpayer's farming business income attributable to the area affected by Pierce's disease and its vectors.

(C) Attributable income is that portion of the taxpayer's California source farming business income that is apportioned to the area affected by Pierce's disease and its vectors. For that purpose, that taxpayer's farming business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That farming business income shall be further apportioned to the area affected by Pierce's disease and its vectors in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

(i) Farming business income shall be apportioned to the area affected by Pierce's disease and its vectors by multiplying the total California farming business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(I) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the area affected by Pierce's disease and its vectors during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(II) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the area affected by Pierce's disease and its vectors during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(ii) If a loss carryover is allowable pursuant to this section for any taxable year after Pierce's disease and its vectors have occurred, the area affected by Pierce's disease and its vectors shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate



on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to compute its net operating loss under this section and either Section 17276.2, 17276.4, 17276.5, or 17276.6 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.2, 17276.4, 17276.5, or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

(e) (1) A qualified taxpayer may utilize the net operating loss carryover allowed by this section only if the Department of Food and Agriculture confirms that the taxpayer’s farming business was affected by Pierce’s disease and its vectors during the year for which the qualified taxpayer seeks a deduction under this section.

(2) To make the determination required by this subdivision, the Department of Food and Agriculture shall utilize the definitions in Title 3 of the California Code of Regulations, relating to Pierce’s disease and its vectors.

(3) The Franchise Tax Board shall develop a management agreement with the cooperation of the Department of Food and Agriculture to establish procedures by which the Franchise Tax Board secures the information. This subdivision shall not be construed to require the Department of Food and Agriculture to confirm more than the fact that the taxpayer’s farming business was affected by Pierce’s disease and its vectors during the year for which the qualified taxpayer seeks a deduction.

(f) This section applies to net operating losses attributable to taxable years beginning on or after January 1, 2001, and before January 1, 2003.

SEC. 4. The amendments to Section 62569 of the Food and Agricultural Code, as made by Section 2 of this act, shall only become operative if SB 1769 is enacted and as enacted, amends Section 62560 of the Food and Agricultural Code.

